

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS
Notice of Proposed Action

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations ("Commissioner") proposes to amend a regulation under the CORPORATE SECURITIES LAW OF 1968 ("CSL") relating to notice filings for securities transactions exempt from qualification pursuant to Corporations Code Section 25102(f). The Commissioner proposes to amend Section 260.102.14 of the California Code of Regulations.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., October 11, 2004. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax (916) 322-3205.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CSL (Corporations Code Section 25000, et seq.) requires the offer or sale of securities in this state to be either qualified or exempt from qualification. Section 25102(f) of the Corporations Code sets forth an exemption from the qualification requirement for transactions where (1) the sale is to 35 or fewer persons, (2) each purchaser has a preexisting relationship with the securities issuer or business or financial experience to protect his or her own interests, (3) each purchaser represents the purchase is for that person's own account, (4) the offer or sale is not accomplished through advertising, and (5) the issuer files a notice with the Department within 15 days of the first transaction. Section 25102(f)(4) further provides that the California Corporations Commissioner may by rule require the issuer to file a notice of transactions. Rule 260.102.14 sets forth the form for the filing of the notice, and the accompanying instructions. Rule 260.102.14 currently allows (but does not require) an issuer to file the notice online.

The proposed amendments to Rule 260.102.14 requires the online filing of the notice in lieu of the paper form, except in demonstrated cases of hardship. The objective of the amendments is to require electronic filings of the notice to improve government efficiency and service to the public, and to reduce operating costs.

AUTHORITY

Sections 25102, 25165 and 25610, Corporations Code.

REFERENCE

Sections 25102, 25165 and 25608, Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 17/01-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 17/01-C. These documents are also available at the Department's Website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file which is available for public inspection at the Department of Corporations, 1515 K Street, Suite 200, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or Savings to any State Agency: Indeterminate potential savings.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Other nondiscretionary cost or savings are imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not impose a mandate on any local agency or school district or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; or (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The requirement to electronically file the notice required under Corporations Code Section 25102(f) does not change the filing fee for the form, and the public will not pay any additional fee to file the form online. Moreover, this proposed rulemaking provides a hardship exception to the mandated electronic filing process.

EFFECT ON SMALL BUSINESS

It has been determined that the regulatory action may affect small business by requiring notices to be filed electronically through the Internet, except as specified.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations or questions regarding timelines or rulemaking status, may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Timothy L. Le Bas, Deputy Commissioner and General Counsel at (916) 322-3977, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

Dated: August 16, 2004
Sacramento, California

TIMOTHY L. Le BAS
Deputy Commissioner and General Counsel
Office of Law and Legislation